HIGH COURT OF UTTARANCHAL AT NAINIAL

C-482 No. 899 OF 2006

Vinod Kumar,
S/o Sh. Fateh Singh,
R/o Village Dahora,
P.S. Kanth, The. And Distt- Moradabad.

.....Applicant.

Versus

1. Smt. Meenu, D/o Chandra Pal Singh,
2. Km. Anik, D/o Vinod Kumar,
   Both at present R/o Mohalla Katora Tal,
   P.S. Kashipur, Distt-Udham Singh Nagar.
3. State of Uttaranchal. .....Opp. Parties/Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri M.C. Bansal & A.K. Bansal, counsel for the applicant and A.G.A. for the State.

Present petition under Section 482 of the Code of Criminal Procedure has been filed by the applicant challenging the order passed under Section 125 (3) of the Code of Criminal Procedure. On 6th September, 2006 following order was passed:

> "6-9-2006:- पत्रावली प्रस्तुत, आवेदिका अधिवक्ता द्वारा आवेदन की विपक्षी द्वारा माननीय उच्च न्यायालय के आदेश का अनुपालन नहीं किया गया है अतः आदेश निष्प्रभावी हो गया है सुना विपक्षी की ओर से कोई उपस्थित नहीं है और न धन जमा किया गया है अतः माननीय उच्च न्यायालय का स्थगन आदेश निष्प्रभावी हो गया है। वसूली वारन्ट नियमानुसार जारी किया जाये दिनांक 11.10.2006 वापसी एवं अग्रिम आदेश हेतु नियत की जाती है । पैरवी की जाय ।"

The aforesaid order shows that the order passed on 13th April, 2006 has not been complied with regard to the payment of Rs. 1,000/- to Smt. Meenu and Rs. 500/- to Km. Anik form the date of order by 15th of each month. The order also shows the in default of the stay order shall stand vacated. The order dated 13.04.2006 was passed to the following effect:

> "Heard Sri M.C. Bansal, learned counsel for the revisionist.
>
> Admit.
>
> Issue notices to the respondents returnable at an early date.
>
> List thereafter.
>
> It was contended on behalf of the learned counsel for the revisionist that no reason has been assigned for awarding the maintenance from the date of the application. As such, the order with regard to the maintenance from the date of application to the date of order is absolutely bad in law.
>
> Menwhile, the operation of the order dated 22.02.2006 passed by the Judge Family Court, Udham Singh Nagar, Rudrapur, in Misc. Criminal Case No. 157 of 2003 shall remain stayed subject to the condition that the revisionist shall pay an amount of Rs. 1000/- to Smt. Meenu and Rs. 500/- to Km. Anik, respondent Nos. 1 and 2 respectively from the date of the order by 15th of each month failing which the stay order shall stands vacated."

In view of the aforesaid, the matter is sent back to the family court for recording the finding that in case compliance of the order passed by this Court has not been made, the court is empowered to proceed under section 125 (3)

of the code of Criminal Procedure. In case, order has been complied with, the Family Judge shall indicate to that effect.

Subject to aforesaid, present petition is disposed of. No. order as to costs.

(Rajesh Tandon, J.)

15.11.2006
Rathour